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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,013	08/28/2003	Dale M. Pitt	BOEI-1-1195	2109
25315	7590	06/17/2005	EXAMINER	
BLACK LOWE & GRAHAM, PLLC			DINH, TIEN QUANG	
701 FIFTH AVENUE			ART UNIT	PAPER NUMBER
SUITE 4800			3644	
SEATTLE, WA 98104			DATE MAILED: 06/17/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/653,013	PITT, DALE M.	
	Examiner Tien Dinh	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 March 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-66 is/are pending in the application.  
 4a) Of the above claim(s) 6,7,11-32,38,39,43-54,60 and 61 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5,8-10,33-37,40-42,55-59 and 62-66 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-10, 33-37, 40-42, 55-59, and 62-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delaney in view of <http://www.fanwars.be/plan/pic/X-wing.jpg> and Brown.

Delaney, the Examiner strongly feels, discloses a morphing airfoil system that has a first airfoil and a second airfoil that is attached to the aircraft near the first root of the first airfoil. The airfoil system (although silent in Delaney) do indeed has hinges, pivots, hub, and drive mechanism to move the airfoils apart or move them together to form a single airfoil. The figures of Delaney don't seem to show that the airfoil system "morphs". However, the website <http://www.fanwars.be/plan/pic/X-wing.jpg> shows that an "X-wing aircraft" as shown in Delaney do indeed have a morphing airfoil system (with moveable connections) that has two airfoils that move apart and "merge" together to foil a single airfoil is well known in the art. Please also know that the X-wing first appeared in the movie Star Wars that was known to the public in the 1970s. Delaney is also silent on the airfoil being non-planar.

Thus it would have been obvious to one skilled in the art to have made the airfoil system of Delaney morph (viable a moveable connection) as taught by <http://www.fanwars.be/plan/pic/X-wing.jpg> to allow the aircraft to have different wing

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configurations. Furthermore, it would have been obvious to one skilled in the art at the time the invention was made to have made the wings of Delaney non-planar to give it more lift.

Please note that to make an aircraft unmanned is well known in this day and age.

Please also note that the “moveable connection” of Delaney in view of

<http://www.fanwars.be/plan/pic/X-wing.jpg> allows the first and second airfoil to move in a first direction approximately perpendicular to at least one of first chord and the second cord.

Re claim 64, please note that when the airfoils combined to for a single airfoil, drag would inherently decreased during “high speed flight.” Please note that high speed flight are broad terms which can be construed as any speed.

#### *Response to Arguments*

The Examiner has used newly cited art Brown to show that non planar wings are well known in the art. This makes applicant's arguments moot.

#### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tien Dinh whose telephone number is 571-272-6899. The examiner can normally be reached on 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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